

**UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN, NORTHERN DIVISION**

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IN RE:

RICHARD, JASON C.  
RICHARD, TARA L.

Case No. 21-20188  
Chapter 7  
HON. DANIEL S. OPPERMAN

Debtor (s),  
\_\_\_\_\_ /

**TRUSTEE'S OBJECTION TO PROPERTY CLAIMED AS EXEMPT**

TO: The above captioned Debtor(s):

PLEASE TAKE NOTICE that the Trustee, DANIEL C. HIMMELSPACH, pursuant to 11 USC Section 522 and Bankruptcy Rule 4003, hereby objects to the Debtor(s), Tara Richard claimed exemptions as set forth on Schedule C.

As grounds for the Objection, Trustee states that the Debtor has attempted to exempt:

<u>Property</u>	<u>Exemptions</u>
CIGNA Life Annuity	11 U.S.C. § 522(d)(11)(D)

The Trustee objects to the exemption as set forth above for the following reasons:

1. The annuity in question is listed as having an "Unknown" value, to which Trustee disagrees. Given the specific terms of the annuity, Debtor Tara Richard's age/life expectancy and using present value analysis, the estimate present value is \$191,000.00.
2. 11 USC 522(d)(11)(D) has a statutory limit of \$25,150.00 and to avoid any confusion or contrary argument at a later date, the exemption should be amended to \$25,150.00 or disallowed. Listing an exemption as "100% of fair market value, up to any applicable statutory limit" should not be allowed.

The 341 Meeting of Creditors was held and concluded on March 31, 2021.

WHEREFORE, the Trustee requests that the court enter an order denying the Debtor's Exemption, and for other relief as is just and proper.

Dated: April 13, 2021

/s/ DANIEL C. HIMMELSPACH

DANIEL C. HIMMELSPACH  
Chapter 7 Trustee  
PO Box 5856  
Saginaw, MI 48603  
(989) 790-0400  
[trusteehimmelspace@gmail.com](mailto:trusteehimmelspace@gmail.com)

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**BRIEF IN SUPPORT OF TRUSTEE'S OBJECTION TO  
PROPERTY CLAIMED AS EXEMPT**

Trustee cites as authority for his objection to Debtor(s) exemption, the provisions of 11 USC 522, MCL 600.5451, Bankruptcy Rule 4003 and the facts of the case. Trustee reserves the right to supplement this brief before any hearing on the Objection to Exemption.

Respectfully submitted,

Dated: April 13, 2021

**/s/ DANIEL C. HIMMELSPACH**  
DANIEL C. HIMMELSPACH  
Chapter 7 Trustee  
PO Box 5856  
Saginaw, MI 48603  
(989) 790-0400  
[trusteehimmelspace@gmail.com](mailto:trusteehimmelspace@gmail.com)

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**ORDER DISALLOWING DEBTOR(S) EXEMPTION IN REAL PROPERTY**

Upon consideration of the Trustee's Objection to the Property Claimed Exempt, and the Bankruptcy Court being fully advised in the premises therein, good cause having been shown and no response having been filed to the Trustee's Objection.

**NOW THEREFORE:**

**IT IS HEREBY ORDERED** that Debtor –Tara Richard's exemption of the CIGNA Life Annuity pursuant to 11 USC 522(d)(11)(D) is **DISALLOWED**.

"EXHIBIT A"

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\_\_\_\_\_ /

**NOTICE OF CHAPTER 7 TRUSTEES'S OBJECTION TO EXEMPTIONS CLAIMED BY DEBTORS**

CHAPTER 7 TRUSTEE, Daniel C. Himmelspace, has filed a Motion with the Court regarding Objection to Exemption of the CIGNA Life Annuity pursuant to 11 USC 522(d)(11)(D) a.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

If you do not want the court to grant the relief sought in the motion, or if you want the court to consider your views on the motion, within Fourteen (14) days, you or your attorney must:

1. File with the court a written response or an answer, explaining your position at:

U.S. Bankruptcy Court  
111 First St.  
Bay City, MI 48707

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must also mail a copy to:

Daniel C. Himmelspace  
Chapter 7 Trustee  
PO Box 5856  
Saginaw, MI 48603

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time and location of the hearing.

**If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting relief.**

Date: April 13, 2021

Signature: /s/ DANIEL C. HIMMELSPACH  
Name: DANIEL C. HIMMELSPACH  
Address: PO Box 5856  
Saginaw, MI 48603  
(989) 790-0400  
[trusteehimmelspace@gmail.com](mailto:trusteehimmelspace@gmail.com)

**(Response or answer must comply with F.R. Civ. P. 8(b)(c) and (e))**

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\_\_\_\_\_/

**CERTIFICATE OF SERVICE**

I hereby certify that on April 13, 2021, I forwarded a copy of the Trustee's  
Objection to Property Claimed as Exempt and the Notice of Chapter 7 Trustee's  
Objection to Exemptions Claimed by Debtor by first class mail to:

Jason & Tara Richard  
908 Elizabeth  
Midland, MI 48640

Shantele Elmy  
3820 Isabella Street  
Midland, MI 48640

Dated: April 13, 2021

/s/ DANIEL C. HIMMELSPACH  
DANIEL C. HIMMELSPACH  
Chapter 7 Trustee  
PO Box 5856  
Saginaw, MI 48603  
(989) 790-0400  
[trusteehimmelspace@gmail.com](mailto:trusteehimmelspace@gmail.com)